

REMARKS

Claims 27-51 are currently pending. Claim 27 is an independent claim. All of the remaining pending claims depend, either directly or indirectly, on claim 27.

The Office Action rejected all of the pending claims. The rejections essentially repeat previous rejections of the pending claims. At least for the reasons articulated below, the Applicant respectfully submits that the Office Action does not set forth a proper prima facie rejection and, therefore, the claims are allowable over the cited art.

The Office Action rejected claims 27-51 under 35 U.S.C. § 103 as unpatentable over the combination of U.S. Patent No. 6,175,279 to Ciccarelli et al. ("Ciccarelli"), U.S. Patent No. 6,445,170 to Pangal et al. ("Pangal"), and U.S. Patent No. 6,275,090 to Burger, Jr. et al. ("Burger"). The Applicant respectfully submits that Pangal and Burger lack some of the limitations present in independent claim 27 and, by implication, in all of the pending claims.

The Applicant presented reasons to support its position in a previous Response to Office Action, dated September 21, 2005 ("Response"). In the Response, the Applicant noted that claim 27 and, hence, all claims, include "wherein a noise content of the reference output current is lower than a noise content of the reference voltage."

The Applicant disagreed with the Examiner's position that "a noise content of the reference output current is *inherently* lower than a noise content of the reference voltage (See [Pangal,] fig. 6 and col. 6 line 51 to col. 7 line 35)." More specifically, the Applicant pointed out that the passage does not discuss a noise content of a reference output current and its relative value to a noise content of a reference voltage. Nothing in the passage appears to relate to relative noise values, inherently or otherwise. In fact, the word "noise" does not appear in that passage or any other part of Pangal. The Applicant invited the Office to provide concrete evidence of its position that relative noise values

are somehow inherent in *Pangal's teachings* by, for example, providing an Examiner's declaration.

With respect to Burger, the Office similarly asserted that the reference teaches that "a noise content of the reference output voltage is *inherently* lower than a noise content of the reference voltage (See [Burger] fig. 1 and col. 2 lines 8-42)." The Applicant disagreed, and pointed out in the Response that the cited passage in Burger fails to discuss a noise content of a reference output current and its relative value to a noise content of a reference voltage.

More specifically, nothing in the passage appears to relate to relative noise values, inherently or otherwise. In fact, the word "noise" does not appear in that passage or any other part of Burger. Similar to Pangal, the Applicant invited the Office to provide concrete evidence of its position that relative noise values are somehow inherent in *Burger's teachings* by, for example, providing an Examiner's declaration.

In response, the Office Action repeated the obviousness rejections based on Pangal and Burger. In response to the Applicant's invitation to show evidence of Pangal and Burger inherently teach relative noise values, the Office Action cited U.S. Patent No. 3,957,037 to Fletcher ("Fletcher"). Specifically, the Office Action took the position that

Fletcher has been admitted that a noise content of output current has been found to lower than a noise content of output voltage (See col. 3, lines 54-57). Since the noise content of the output current is lower then the nose content of the output voltage; therefore, the reference output voltage derived by the reference output current ($I_{ref} \times R_{constant}$) has a lower noise content than the output of a voltage source. For that reason, the rejections are proper and stand for all the pending claims.

Office Action at 6 (citing Fletcher at col. 3, lines 54-57). The Applicant disagrees for at least the following reasons.

At the outset, the issue in the previous rejections lay in the Office's position -- repeated again in the Office Action regarding the *inherent teachings of Pangal and*

Burger. More specifically, the Office asserts that -- that Pangal and Burger inherently teach that "a noise content of the reference output current is inherently lower than a noise content of the reference voltage," Office Action at 2 (citing Pangal fig. 6; *id.* at col. 6, line 51 to col. 7, line 35), and "the reference voltage VBG is a low-drift band-gap reference voltage and a noise content of the reference output voltage is inherently lower than a noise content of the reference voltage," Office Action at 3 (citing Burger fig. 1; *id.* at col. 2, lines 8-42).

Thus, the relevant inquiry focuses on what Pangal and Burger teach inherently, not on what Fletcher teaches. Accordingly, citing Fletcher does not cure the deficiencies of the rejections.

Furthermore, the Applicant disagrees with the Office Action's characterization of the cited passage in Fletcher. Fletcher's disclosure "relates to plethysmography which is the measurement of the size of an organ or limb and in the amount of blood flowing therein." Fletcher at col. 1, lines 13-15. Fletcher's invention

relates to impedance plethysmography and the synonymous terms of bioimpedance, bioelectrical impedance, and impedance rheometry in which a pair of transmitting ring electrodes are used to apply a high frequency electric current to a patient and pair of readout ring electrodes are used to receive the varying high frequency electric current flowing through the part of the patient located between the transmitting ring electrodes and the readout ring electrodes associated therewith. The current flow between the transmitting and associated ring electrodes is a function of the variation of the electrical impedance therebetween. The electrical impedance in turn is a function of the variation of blood flow through the part of the patient encircled by the transmitting and receiving ring electrodes.

Id. at col. 1, lines 15-31. Thus, Fletcher describes using a high-frequency current source to generate a current that passes through a patient's body. The Applicant respectfully submits that Fletcher's teachings -- even if properly characterized -- are inapplicable to what Pangal and Burger describe inherently, as the Office Action asserts.

An examination of the cited passage and contextual text in Fletcher further shows that it does not provide the inherent teaching that the Office Action alleges. Fletcher's system "includes a source of high frequency electrical current 12." Fletcher at col. 3, lines 50-51. Fletcher notes that the "high frequency source of electrical current 12 may be constructed from a constant current generator or constant voltage generator of well known construction." *Id.* at col. 3, lines 51-54.

Fletcher then states that the "constant current generator is preferred because it has been found to produce less electrical noise in the output signal than if the constant voltage generator is used." Fletcher at col. 3, lines 54-57. The Office Action appears to assert that the last passage supports the Office's reading of what Pangal and Burger teach inherently. The Applicant disagrees.

The cited passage simply states that, in Fletcher's system, using a constant current generator causes less noise in Fletcher's output signal than does a constant voltage generator. The statement on its face applies to Fletcher's system, and does not state a universal law or relationship. As such, it fails to show inherency, let alone any inherency in Pangal's and Burger's teachings. Accordingly, the Applicant respectfully submits that the Office Action has failed to establish the allegedly inherent teachings in Pangal and Burger.

Because of at least the above reasons, the Office Action fails to set forth a proper *prima facie* obviousness rejection of claim 27. Furthermore, the Applicant submits that the Office Action fails to properly reject the rest of the pending claims, i.e., claims 28-51. Because claims 28-51 depend ultimately on claim 27, the Office Action may not base a proper obviousness rejection of those claims on Pangal and Burger.

As described above, Pangal and Burger fail to teach or suggest at least some of the limitations of claim 27. Pangal and Burger therefore fail to render obvious any of the

pending claims. Furthermore, Fletcher fails to cure the defects of the rejections, for at least the reasons articulated above.

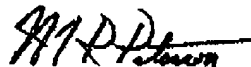
Based on the above remarks, the Applicant respectfully submits that the pending claims are allowable over the cited references. The Applicant therefore respectfully requests a prompt Notice of Allowance.

CONCLUSION

The Applicant submits that the claims are in condition for allowance, and requests reconsideration of the application and a prompt Notice of Allowability. Furthermore, the Applicant believes that, with the exception of the fees for the extension of time and RCE, no other fees are due in connection with this paper. Should any additional fees under 37 CFR 1.16-1.21 be required for any reason relating to the enclosed materials, however, the Commissioner is authorized to deduct such fees from Deposit Account No. 50-3813/SILA:095.

The examiner is invited to contact the undersigned at the phone number indicated below with any questions or comments, or to otherwise facilitate expeditious and compact prosecution of the application.

Respectfully submitted,



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